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Former NHL player Bryan Berard and ex-cop help feds nail two Arizona men in massive fraud

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A Brooklyn federal judge on Wednesday unsealed a 10-count grand jury indictment of a self-described "lifestyle coach" and a convicted cocaine dealer who authorities believe ripped off upwards of \$15 million from a dozen or more current and former National Hockey League players and several Long Island police officers and their families.

A swarm of law enforcement officials, including agents from the FBI, the IRS and the Scottsdale (Ariz.) police, arrested Phil Kenner and Tommy Constantine on multiple charges of bilking the players who trusted the men to invest their money, including wire fraud, wire fraud conspiracy, and money laundering conspiracy.

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For more than a decade, according to the indictment, Kenner and Constantine organized a scheme telling victims their money would be invested in real estate ventures, privately held companies and a legal defense fund when in fact the money was diverted to accounts Kenner and Constantine used for themselves.

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Kenner faces up to 17 years in prison, while Constantine faces 15 years. In a letter to the judge overseeing the case, U.S. Attorney for the Eastern District of New York Loretta Lynch asked that the men be held without bail until a scheduled appearance in Central Islip on Dec. 11.

"Phillip Kenner spun a web of lies, deceit and broken promises that stretched from Hawaii to Mexico to the east end of Long Island," Lynch wrote in the letter. "Kenner used his school connections to build a client list of NHL players. Once he gained their trust he promptly betrayed it by steering them to fraudulent investment schemes that enriched himself and Constantine to the tune of millions at the players' expense."

Kenner and Constantine were arrested near their Scottsdale homes -- Kenner was collared working out at a gym Wednesday morning, according to one source -- bringing to a close a long and difficult investigation that relied largely on the determination and persistence of former Ranger and Islander [Bryan Berard](#) and former New York and Long Island police officer John Kaiser, along with New York-based FBI agent Matt Galioto.

[The Daily News sports investigative team first began reporting on the case](#) of the missing hockey millions in 2009. Among the victims was Berard, the former No. 1 NHL draft pick who later lost an eye in a gruesome on-ice accident and fought his way back to the NHL. He and other players have cooperated with federal investigators for at least three years. The scam is alleged to have involved former Islander Michael Peca, former Ranger Mattias Norstrom, Jere Lehtinen of the Dallas Stars and NHL journeymen Glen Murray and Jozef Stumpel, some of whom have turned against Kenner and Constantine.

"Both are in cuffs, finally," said Berard, upon hearing of the arrests.

Berard, who was picked first overall in the 1995 NHL Entry Draft by the Ottawa Senators, has devoted much of his post-NHL life to poring through bank records and documents and sifting through emails as he cooperated with the FBI in exposing one of the most extensive con jobs in sports history.

"I feel like I can finally close a chapter in my life. It's been a tough three years finding out a friend/business manager had stolen from me after I retired from the NHL," said Berard, who estimates he lost at least \$3 million and maybe as much as \$6 million in forged lines of credits, worthless real estate deals and bad investments in a tech startup, a video game company and a shoulder pad company. "I never made any money from any of it. Now, I can now move on to my next career knowing he will be held responsible for what he's done."

Kenner, who as recently as two weeks ago was soliciting money from the players and other potential victims, and Constantine, were taken to the federal courthouse in Phoenix where they were expected to be arraigned before transport to New York, where they will face another arraignment in the federal courthouse in Central Islip.

Constantine was recently sued by Kenner, but for years they conspired together, according to the feds. Between December 2004 and March 2006, Kenner wired approximately \$2 million of the investors' money from a Hawaii real estate project to Constantine's holding company, from which Constantine steered the money to other corporate accounts, as well as two race car teams in California.

The scope of the fraud is still under investigation and could result in a superseding indictment for upwards of what Berard and others believe could be \$80 million.

The sprawling investigation includes fake investments, lavish expenses, forged signatures on lines of credit, death threats and blackmail, much of which centers around Kenner and Constantine's attempts to gain control of a Cabo San Lucas golf resort that is rapidly becoming one of the most acclaimed courses in North America.

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The alleged crimes left some of the players broke, facing home foreclosures and IRS liens, even as Kenner and Constantine used their money to fund a lifestyle that included private planes and condos and property in Hawaii, Arizona, Las Vegas and Mexico. The palatial home where Kenner was living when he was arrested was recently listed on a vacation rental website as a resort paradise, complete with a movie theater, a \$1 million pool and tennis and basketball courts.

Bryan Berard, who was the first overall pick in the 1995 NHL Entry Draft, cooperates with federal investigators after losing millions in the massive fraud. (Bryan Smith for New York Daily News)

Meanwhile, one player, Dmitri Khristich of Ukraine, who last played for the Washington Capitals, then returned to his country broke. Another, Jason Woolley, who played for the Red Wings, Sabres, Penguins, Panthers and Capitals, filed for bankruptcy in September 2012 and listed among his assets his silver medal from the Olympics and two guinea pigs. Woolley listed debts of \$212,774.

Former NYPD and Suffolk County cop and developer Kaiser, who worked tirelessly with Berard to expose Kenner, who was his onetime investment partner, and Constantine, described the devastating losses he, his brother and mother suffered at the hands of Kenner and Constantine.

"Between me, my family and friends, we lost about \$7 million," Kaiser told The News. "What we have gone through, I can't describe. He has ruined everything. I had my house foreclosed. I lost friends over this. My cop buddies had their whole life savings in it. His (Kenner's) deceit and lies have no bounds."

Kenner, a one-time financial advisor to former Rangers great Mark Messier and the pop group 'N Sync, calls himself a lifestyle coach. Constantine, a former race car driver who pleaded guilty in 1993 in Illinois to one count of delivery of a controlled substance - cocaine - served a six-year prison sentence.

Starting around 2002, Kenner and Constantine convinced the players to fork over millions of dollars in face-to-face meetings and telephone conversations, some of which were taped by the players and Kaiser as they began cooperating with law enforcement.

After the men became unable to account for the players' money in late 2009-2010, the government alleges Kenner and Constantine convinced the players to pony up their savings for what became a \$10-\$12 million "global settlement fund" (GSF) meant to wage a legal battle against [Ken Jowdy](#), Kenner's former partner in the Cabo San Lucas golf development called Diamante.

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Jowdy, who split with Kenner in late 2007-2008 and has spent the last five years constructing and developing Diamante even as he fought a myriad of legal claims brought against him by Kenner, told The News in a series of interviews that he, too, has been threatened and victimized by Kenner and Constantine. He began providing the government with documents and information within days of the start of the government's investigation in 2009. Kenner and Jowdy came to odds amid the economic downturn in 2007-2008 and the collapse of Lehman Bros., their primary banker, and their feud led Kenner and Constantine to solicit more money from the players - contributions ranging from \$250,000 to \$1 million each toward the GSF.

"I invested \$250,000 with Phil Kenner and Ken Jowdy in 2004-2005, when Kenny found the property for Diamante," said Berard, "and other players were doing the same. There was no paperwork. By 2007, Phil Kenner was saying Ken Jowdy was stealing our money and that we had to put in more to get Diamante away from him.

John Kaiser, a former New York and Long Island cop, is also among the victims of the fraud. (Bryan Smith for New York Daily News)

As their other real estate schemes began to unravel, Constantine and Kenner traversed North America raising money for the GFS in their desperate attempt to wrest control of Diamante from Jowdy, meeting with each player, telling them the only way they could get their money back was to go after Jowdy. The men raised \$4.1 million, which was deposited into a client trust account of Hollywood attorney Ronald Richards.

According to Jowdy, Kenner demanded Jowdy turn over his shares in Diamante or risk a lawsuit and a character assassination attack through the media. Jowdy refused to do so, and Richards filed a lawsuit in the name of the players. Reported widely, it claimed Jowdy had blown the original \$25 million of the players' money on strippers, porn stars, private jets and wild Cabo parties attended by Jowdy and his pals, including Roger Clemens and Joe Morgan.

The attack on Jowdy consumed a small portion of the \$4.1 million GSF funds, going toward attorney fees, a public relations firm and expert witnesses. But the majority of it was steered toward a bankrupt airpark, a condo development in foreclosure and a worthless bank-card company, according to court documents reviewed by The News, as well as emails and texts Kenner and Constantine exchanged in an increasingly frantic bid to raise more money as their schemes unraveled.

Jowdy has vigorously fought to dispel the now-discredited lawsuit's claims, pointing out to potential investors that he has turned Diamante into one of Mexico's premier golf courses, ranked among Golf Magazine's top 100 courses in the world and listed in May's Golf Digest as the top new course in Mexico. A year-and-a-half ago, Tiger Woods began negotiations with Jowdy to develop a second course on the property alongside Diamante, a project that is near completion.

By the time the feds began investigating the GSF, Kenner and Constantine's alleged fraud had been underway for at least five years. According to the indictment, between 2004-2006, Kenner and Constantine had set up lines of credit on the players' behalf through Chicago-based Northern Trust in Phoenix, claiming the money would be invested in a Hawaii land development project. Instead, the men

also allegedly transferred that money to accounts for their own use, According to the indictment,

Kenner and Constantine used the money for meals, limos, rental cars and cell phone expenses.

The Hawaii property is now described by Berard and Kaiser as "worthless pineapple fields."

A former employee of the bank who was questioned by the FBI told The News that Kenner established the lines of credit for the hockey players and named himself as the intermediary between the athletes and Northern Trust after depositing \$15 million of the NHL retirees' money in the bank. Bank officials suspected that Kenner was sending money from the players' accounts to Constantine and accounts in Mexico rather than the Hawaii project, the former bank employee said, but did nothing to stop it.

Northern Trust officials feared the bank would be accused of wrongdoing if they notified regulators or law-enforcement agencies about their suspicions, the former employee said, even when they suspected Kenner was forging players' signatures on documents, something Berard said happened to him.

Bryan Berard has two stints with the NY Islanders during his NHL career. (Bruce Bennett/Getty Images)

According to a Northern Trust spokesman, the bank has "cooperated fully with authorities investigating this matter and has not been accused by the authorities of any wrongdoing."

One of the worst mistakes Kenner and Constantine made was making an enemy of John Kaiser, the former cop who had begun investing with Kenner in the Hawaii project back in 2001.

In late 2010, after a series of News stories had begun exposing Kenner and Constantine's hockey shenanigans, Kaiser began to suspect the men were pilfering his money.

"I tried to ask Phil, 'where's all the money going?'" Kaiser said. "He said, 'it's gone.' He'd sent me a box of documents that I left sitting in a corner of my office."

Kaiser reached out to connect with Berard and discovered that Berard shared his suspicions.

"I invited Bryan over and said, 'let's go over all this,'" Kaiser recalls. "It was a treasure trove."

Kaiser and Berard went through the documents page by page, making copies and finding their names on

forged wire transfers, liens and investments they weren't aware of and aren't sure ever existed. For Kaiser, the betrayal was especially devastating. He had supplemented his police work income by buying rundown houses, remodeling them and selling them for a profit.

Former Islanders captain Michael Peca is among a group of NHL players to lose money in the scam. (AP Photo/Chris O'Meara)

"I did everything to fix up a house, soup to nuts," he said.

Kaiser also invested his mother's money with Kenner and Constantine and that of several other police officers. He had persuaded his wheelchair-bound brother to invest \$400,000.

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"It falls on me," Kaiser said. "What our lives have gone through I can't describe. I had my own house foreclosed on. My cop buddies had their whole life savings in this. I worked too hard to let these couple of scumbags get away with this."

Kaiser and Berard embarked on their own tour, jumping in Kaiser's truck and driving all over North America to meet with the hockey players and try to convince them that the lifestyle coach they had trusted for years and his race-car driving associate had scammed them out of millions.

They met with Jowdy, too, traveling to Cabo to finally see Diamante for themselves. They have spent the last year working on the Diamante project with Jowdy, turning it into one of the world's premier golf destinations.

"I'm 100% behind the project," Kaiser says. "But think of what it could have been had we known what